UNITED
NATIONS

A

General Assembly

Distr.
LIMITED

A/AC.182/L.95/Rev.1
3 February 1997
ENGLISH
ORIGINAL: SPANISH

SPECIAL COMMITTEE ON THE CHARTER
OF THE UNITED NATIONS AND ON THE
STRENGTHENING OF THE ROLE OF THE
ORGANIZATION
27 January-7 February 1997

POSSIBLE AMENDMENTS TO THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE TO EXTEND ITS COMPETENCE WITH RESPECT TO CONTENTIOUS MATTERS TO DISPUTES BETWEEN STATES AND INTERNATIONAL ORGANIZATIONS

Working paper submitted by Guatemala

A. Article 34, paragraph 1, should read:

"1. Only States and, under the conditions laid down in Articles 36A and 36B, the United Nations or any other international organization comprised of States and established by a multilateral treaty registered in accordance with Article 102 of the Charter of the United Nations, may be parties in cases before the Court."

B. Insert an Article 36A reading:

"Article 36A

"1. The Court shall be competent to deal with any dispute between a State member or a number of States members of an international organization, on the one hand, and the organization, on the other, where:

(a) The constituent instrument of the organization confers competence on the Court for such purpose and the dispute falls within the category or one of the categories of disputes provided for in the relevant provisions of the instrument; or

(b) A treaty to which all or a number of the States members of the organization are parties confers competence on the Court for such purpose, the State party or the States parties to the dispute are parties to the

treaty, the dispute falls within the category or one of the categories of disputes provided for in the relevant provisions of the treaty, and the organization has, by means of a declaration, already accepted the competence conferred on the Court by the treaty with respect to the dispute; or

(c) The State party or States parties to the dispute, on the one hand, and the organization, on the other, have decided, by special agreement, that the dispute shall be referred to the Court.

2. Article 36, paragraph 4, shall apply to declarations under paragraph 1 (b) above.

3. In the case of the United Nations, the prior acceptance of the competence of the Court provided for in paragraph 1 (b) above shall take the form of a General Assembly decision.

4. In the event of a dispute as to whether the Court has jurisdiction under this Article, the matter shall be settled by the decision of the Court."

C. Insert an Article 36B reading:

"Article 36B

"1. The Court shall be competent to consider any dispute between a State or a number of States, on the one hand, and an international organization of which none of the States is a member, on the other hand, in accordance with the terms of a special agreement concluded between the two parties to the dispute.

"2. In the event of a dispute as to whether the Court has jurisdiction under this Article, the matter shall be settled by the decision of the Court."

D. Insert an Article 36C reading:

"Article 36C

"In any of the cases provided for in Articles 36A or 36B, neither Article 31, paragraphs 2 to 6, nor Article 34, paragraph 3, shall apply."

E. In Article 40, insert a paragraph 3A reading:

"3A. In any of the cases provided for in Article 36A, paragraph 1 (a) and (b), the dispute shall be referred to the Court by a written application, which shall be addressed to the Registrar and shall indicate the subject of the dispute and the parties thereto."

F. In Article 53, paragraph 2, reference should be made to Articles 36A and 36B, in addition to Articles 36 and 37.

G. In Article 62, paragraph 1, add after the word "State" the words "or an international organization to which the Court is open in accordance with Article 34, paragraph 1".